

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHYRIAA HENDERSON, on behalf
of herself and all others similarly
situated,

Plaintiff,

vs.

UNITED STUDENT AID FUNDS,
INC. D/B/A USA FUNDS,

Defendant.

CASE NO. 3:13-cv-1845-JLS-BLM
CLASS ACTION

**DECLARATION OF
JEFFREY A. HANSEN**

Hearing date: July 7, 2016 2016
Time: 1:30 pm
Courtroom: 4A – 4th Floor

DECLARATION OF JEFFREY A. HANSEN

1
2 1. My name is Jeffrey A. Hansen. I am an adult over the age of 18, a resident
3 of the state of California, and I reside at 2625 Kings View Circle, Spring Valley, CA
4 91977. Unless indicated otherwise, I have personal knowledge of each of the matters
5 stated herein, and if called to testify I could and would testify competently about them.

6 2. I was asked to prepare this declaration by Plaintiff's counsel in the above-
7 captioned matter, Law Offices of Ronald A. Marron, APLC and Edelson PC, in support
8 of Class Certification.

9 3. I have been retained in this case at a rate of \$300 per hour, for all services
10 rendered, and \$380 per hour for depositions.

11 ***Experience and Credentials.***

12 4. I am the principal of Hansen Legal Technologies, Inc. My firm is in the
13 business of handling Information Technology, including investigations and analysis of
14 electronic data. I have served as an expert or consultant in more than 150 TCPA class
15 action lawsuits, and as an expert or consultant in numerous other civil cases.

16 5. With regard to my experience as an expert and consultant in legal matters,
17 generally, I have frequently served as an expert witness and consultant to law firms in
18 conducting computer forensic analysis. I have also assisted in electronic discovery
19 issues.

20 6. Specific to this case, my firm was retained to assist Plaintiff in evaluating
21 and analyzing the telephone dialing systems used by agents for defendant United
22 Student Aid Funds, Inc. ("USAF") in placing telephone calls to Plaintiff and the
23 putative class. I have also been retained to assist Plaintiff and her counsel in evaluating
24 and analyzing electronic data related to the calls and other electronic data associated
25 with computer systems and/or telephone dialing systems used by USAF. In that respect,
26 I have extensive experience with data warehousing, including data warehousing related
27 to telemarketing and autodialers in general. I am familiar with the procedures involved
28 in such practices, and I have personally engaged in data warehousing regarding the

1 compilation of certain lists, including demographic and target audience lists for
2 telemarketing, and have personally repaired defective lists to eliminate improperly
3 formatted and corrupted data.

4 7. I also frequently act as a consultant to companies that engage in the use of
5 autodialers, and I am familiar with their use and procedures, and the technical aspects of
6 that business. In that capacity, I have assembled, configured, maintained, operated all
7 aspects of autodialers, and interfaced with the telecommunications providers through
8 whose networks the autodialers operate.

9 8. I have set up and maintained all aspects of predictive dialers and
10 autodialers, from predictive dialers operating with just three telephone lines to outbound
11 call centers capable of generating over 1 million calls per hour. When building these
12 systems, I have used various software and hardware solutions for predictive and
13 autodialers, both proprietary and open source, and customized those systems for their
14 particular uses. I myself have used and maintained predictive and autodialers, and
15 trained others to do the same.

16 9. Further, I am familiar with the manner in which outbound dial lists are
17 used and maintained in the debt collection industry in which USAF operates. Similarly,
18 I am familiar and have experience with, and know how to use, databases containing cell
19 block identifiers and ported number lists, both of which identify cellular type telephone
20 numbers and are typically used in these industries.

21 10. Over the last twenty-six (26) years, I have also had extensive experience in
22 a broad range of other areas in the electronic and information technology fields and
23 obtained many certifications such as MCP 4.0, A+, Network+, MCP 2000, MCSA,
24 MCSE, Linux+, I-Net+, Security+, CIW Security Analyst. From the hardware
25 perspective, I have extensive experience in troubleshooting and repairing at the
26 component level, and building various systems for various purposes. I have designed,
27 built and maintained computer networks in a variety of environments from commercial
28

1 businesses to very large DoD networks. I have taught approximately 1,000 others the
2 skills to become computer network engineers themselves.

3 11. I have had extensive experience in dealing with security breaches and
4 hardening computer networks against those breaches. I have handled many computer
5 forensic and E-Discovery matters, including internal investigations in companies,
6 working at the FBI sponsored Regional Computer Forensics Laboratory, and founding a
7 computer forensics and E-Discovery firm over 8 years ago. I have also had extensive
8 experience with the set-up and use of predictive and auto dialers. (See Exhibit A –
9 Resume of Jeffrey A. Hansen).

10 12. I have been called to testify in the following civil matters: *Craig Casey v.*
11 *Valley Center Insurance Agency Inc.*, Case No. 37-2008-00004378-SC-SC-CTL (San
12 Diego Superior Court); *Stemple v. QC Holdings, Inc.*, Case No. 12-CV-1997-CAB-
13 WVG (S.D. Cal.); *Hahn v. Massage Envy Franchising*, Case No: 3:12-cv-00153-DMS-
14 BGS (S.D. Cal.), *Abdeljalil v. General Electric Capital Corporation*, Case No: 12-cv-
15 02078-JAH-MDD (S.D. Cal.), *Jasmina Webb v. Healthcare Revenue Recovery Group,*
16 *LLC* Case No: C 13-0737 JD (N.D. Cal.), *Balschmiter v TD Auto Finance, LLC*, Case
17 No: 2:13-cv-01186 (E.D. Wisc.), *Jordan Marks v Crunch San Diego, LLC*, Case No.
18 14-CV-0348-BAS (BLM) (S.D.Cal.), *Peter Olney v Job.com*, Case No: 1:12-cv-01724-
19 LJO-SKO (E.D. Cal.), *Carlos Guarisma v ADCAHB Medical Coverages, Inc. and Blue*
20 *Cross and Blue Shield of Florida, Inc.*, Case No: 1:13-cv-21016-JLK (S.D. Fla.), *Farid*
21 *Mashiri v Ocwen Loan Servicing, LLC*, Case No: 3:12-cv-02838 (S.D. Cal.), *Monty J.*
22 *Booth, Attorney at Law, P.S. v Appstack, Inc.*, Case No. 2:13-cv-01533-JLR (W.D.
23 Wash.), *Rinky Dink, Inc. d/b/a Pet Stop v World Business Lenders, LLC*, Case No. 2:14-
24 cv-00268-JCC (W.D. Wash.), *Michael Reid and Dave Vacarro v. I.C. Sytems, Inc.*, Case
25 No. 2:12-cv-02661-ROS (D. Ariz.), *Jeffrey Molnar v NCO Financial Systems* Case No.
26 3:13-cv-00131-BAS-JLB (S.D. Cal.), *Latonya Simms v Simply Fashion Stores LTD, and*
27 *ExactTarget, Inc.*, Case No. 1:14-CV-00737-WTL-DKL (D. Ind.), *Sueann Swaney v*
28 *Regions Bank*, Case No. CV-13-RRA-0544-S (N.D. Ala.); *Hooker v SiriusXM*, Case

No. 4:13-cv-00003 (AWA) (E.D. Va.), *Diana Mey v Frontier Communications*, Case No. 13-cv-01191-RNC (D. Conn.), *Rachel Johnson v Yahoo! Zenaida Calderin v Yahoo!* Case No. 14-cv-2028 14-cv-2753 (N.D. IL), *Philip Charvat v Elizabeth Valente*, Case No. 12-cv-5746 (N.D. IL), *Robert Zani v Rite Aid Hdqtrs. Corp.*, Case No. 14-cv-9701(AJN)(RLE)(S.D. NY).

13. I have reviewed various documents and evidence from this case relating to the calls made to Plaintiff and the proposed Class, and I have reviewed various other documents relating to the use and regulation of autodialers. Specifically, I have reviewed the following documents: 1) Exhibit B - The Big 2 Myths You Probably Believe About Manual Dialing - Part 1; 2) Exhibit C - The Big 2 Myths You Probably Believe About Manual Dialing - Part 2; 3) Exhibit D - US patent 3,943,289; 4) Exhibit E - US patent 4,933,964; 5) Exhibit F - Noble TCPA Compliance Solution; 6) Exhibit G - ATDS and predictive dialers 1970-1992; 7) Exhibit H - Davox Marketing; 8) Exhibit I - US Patent 3229042; 9) Exhibit J - US Patent 3317678; 10) Exhibit K - IMS_Do_Not_Contact_Solutions; 11) Exhibit L - About_IMS; 12) Exhibit M - IMSCustomerList; 13) Exhibit N – wireless-block-identifier; 14) Exhibit O - NPAC.

14. Additionally, I have been in receipt and have reviewed documents provided to me by Plaintiff's counsel produced in response to subpoenas served on General Revenue Corporation ("GRC"), National Enterprise Systems, Inc. ("NES"), Pioneer Credit Recovery, Inc. ("Pioneer"), Allied Interstate LLC ("Allied"), Coast Professionals, Inc. ("Coast"), Delta Management Associates, Inc. ("Delta"), Enhanced Recovery Company, LLC ("ERC"), Enterprise Recovery Systems, Inc. ("ERS"), Collecto, Inc. ("EOS USA"), Financial Management Systems, Inc. ("FMS"), Valentine & Kebartas, Inc. ("V&K"), West Asset Management, Inc. ("West") and Windham Professionals, Inc. ("Windham") (together referred to as "Collectors"). I am informed that the information I have reviewed respond to Plaintiff's request to the Collectors to produce information relating to the telephone dialing equipment used to make phone

1 calls on behalf of USAF for the purpose of collecting on USAF's accounts from August
2 8, 2009 to the present. The information includes:

- 3 a. documents regarding Livevox, Inc.'s ("Livevox") predictive dialing system
4 produced by Allied (PL-3PARTY PRODUCTION005648-6027), Delta
5 (PL-3PARTY PRODUCTION006485-6533), ERC (PL-3PARTY
6 PRODUCTION006612-6688), ERS (PL-3PARTY PRODUCTION006694-
7 6941, 9089-9097), EOS USA (PL-3PARTY PRODUCTION010058-
8 10437), V&K (PL-3PARTY PRODUCTION019473-19477) and Windham
9 (PL-3PARTY PRODUCTION019347-19386);
- 10 b. documents regarding the Ontario Systems' Guaranteed Contacts predictive
11 dialing system produced by GRC (NSI-GRC 27-111), NES (PL-3PARTY
12 PRODUCTION000151-1976) and West (USAF-3PARTY
13 PRODUCTION0000001-12);
- 14 c. documents regarding Ontario Systems' Contact Savvy predictive dialing
15 system produced by Coast (PL-3PARTY PRODUCTION006238-6320);
- 16 d. documents regarding Noble Systems' predictive dialing system produced
17 by Pioneer (NSI-PCR000122-1207);
- 18 e. documents regarding aQrate's predictive dialing system produced by Allied
19 (PL-3PARTY PRODUCTION006028-6083);
- 20 f. documents regarding DAKCS Qwikdial predictive dialing system
21 produced by Delta (PL-3PARTY PRODUCTION006534-6549);
- 22 g. documents regarding Genesys Soundbite predictive dialing system
23 produced by EOS USA (PL-3PARTY PRODUCTION010008-10057);
- 24 h. documents regarding DPTS system produced by FMS (PL-3PARTY
25 PRODUCTION019592-19687);
- 26 i. documents regarding Interactive Intelligence's predictive dialing system
27 produced by Pioneer and GRC (produced jointly as NSI-GRC-
28 PCR000002-2143).

1 15. Additionally, I have analyzed the Ontario Systems Guaranteed Contacts
 2 predictive dialer, Ontario Systems Contact Savvy predictive dialer, LiveVox, Inc.
 3 predictive dialer, Genesys/Soundbite predictive dialer, Noble Systems predictive dialer,
 4 Interactive Intelligence predictive dialer, and aQrate predictive dialer in other matters.

5 16. Based upon the documents and evidence I have reviewed, I conclude that
 6 each of the dialers used to call Plaintiff and the members of the proposed Class is a
 7 predictive dialer, and therefore an Automatic Telephone Dialing System under the
 8 TCPA.

9 17. Further, based upon the documents and evidence I have reviewed, I
 10 conclude that USAF's collections agents have used predictive dialers to call millions of
 11 unique cellular telephone numbers.

12 ***USA Funds used Predictive Dialers, which have the Characteristics of an Automatic***
 13 ***Telephone Dialing System***

14 18. I have been retained in part to evaluate whether the telephone dialing
 15 systems used by USAF to place the calls at issue in this case are predictive dialers or
 16 otherwise have the characteristics of an "automatic telephone dialing system" ("ATDS")
 17 as defined by the Telephone Consumer Protection Act, 47 U.S.C. § 227. ("TCPA").
 18 According to the FCC:

19 The TCPA defines an "automatic telephone dialing system" as "equipment
 20 which has the capacity (A) to store or produce telephone numbers to be
 21 called, using a random or sequential number generator; and (B) to dial such
 22 numbers." The statutory definition contemplates autodialing equipment that
 23 either stores or produces numbers. It also provides that, in order to be
 24 considered an "automatic telephone dialing system," the equipment need
 only have 'the *capacity* to store or produce telephone numbers (emphasis
 added)'"....

25 *In re Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 18 F.C.C.
 26 Rcd. 14014, ¶¶ 131–134 (2003) (the "2003 Order").

27 19. The term "predictive dialer" is a technical term used to describe the type of
 28 dialing system. Predictive dialers all work under the same guiding principle: they

1 transfer telephone numbers to be called to a list or “campaign.” This list of numbers is
2 then dialed without human intervention. The calls are made, using multiple telephone
3 lines, in advance of being connected to a live operator. Using a complex computer
4 algorithm, the dialing system will “predict” how far in advance to make the calls in
5 attempt to prevent time wasted in listening to rings, answering machines, disconnected
6 phone numbers and calls that are not answered. This functionality has not changed
7 materially since Davox marketed their predictive dialers in the 1980’s. (*See Exhibit H -*
8 *Davox Marketing*).

9 20. The term “predictive dialer” was not created by the FCC in their 2003
10 Order. Nor was the term “automatic telephone dialing system” created by Congress.
11 These are terms that have been used to describe such equipment, by those in the
12 industry for decades. Norman A. Sheldon filed a patent (*Exhibit D - US patent*
13 *3,943,289*) on July 12, 1974 for what he called a “automatic telephone dialing system”
14 (*id.*, page 4, column 2, line 63) which dialed numbers from a sequential number
15 generator and delivered pre-recorded messages to telephone subscribers. He chose to
16 use a sequential number generator because at that time computer storage was very
17 expensive (*id.*, page 4, column 2, lines 2–11.) Although he chose to use a sequential
18 number generator, stored lists of numbers had been used for many years prior to his
19 patent. (*See Exhibit I - US Patent 3229042; Exhibit J - US Patent 3317678*). In July 25,
20 1989, Bassem M. Girgis filed a patent (*Exhibit E - US patent 4,933,964*) for a
21 “predictive outbound dialing system” (*Exhibit E - US patent 4,933,964 page 19 column*
22 *2 line 53*) which used an “input call list” (*Exhibit E - US patent 4,933,964 figure 3*)
23 stored in the system to call those numbers in advance predicting when a live agent
24 would be available using a predictive algorithm. This system was designed to call out
25 on more lines than available agents from a list of numbers, listen for rings, busy, and
26 answered calls, and connect the calls to agents by predicting when they would be
27 available. This is the precise capability of the predictive dialers used today and the
28 predictive dialers used by USA Funds. The functionality of the autodialers and

1 predictive dialers has not changed materially from long before the TCPA until now with
 2 the exception that modern dialers can make more calls in a shorter period of time.
 3 Attached as *Exhibit G* are examples of articles and job postings illustrating that the
 4 exact same type of equipment was used over the last four decades, along with the terms
 5 “Automatic Telephone Dialing System” and “Predictive Dialer,” long before Congress
 6 or the FCC considered the equipment. (*See Exhibit G - ATDS and predictive dialers*
 7 *1970-1992; see also* Brief for Respondents, *ACA Int’l. et al. v. Fed. Commc’ns. Comm.*,
 8 No. 15-1211, Dkt. No. 1594039, at *13–14 n.3 (D.C. Cir. Jan. 15, 2016) (hereinafter
 9 “FCC Resp. Br.”). The equipment described in the TCPA and the FCC 2003 Order have
 10 precisely the same characteristics as the equipment that is in use today and used by
 11 USA Funds. The fact that the dialers place calls to numbers stored by the dialing system
 12 and deliver predictive dialed calls indicates tht the dialers have the characteristics of an
 13 ATDS, as it relates to predictive dialers as clarified in the FCC 2003 Order:

14 The record demonstrates that a predictive dialer is equipment that dials
 15 numbers and, when certain computer software is attached, also assists
 16 telemarketers in predicting when a sales agent will be available to take
 17 calls. The hardware, when paired with certain software, has the capacity to
 18 store or produce numbers and dial those numbers at random, in sequential
 19 order, or from a database of numbers. As commenters point out, in most
 20 cases, telemarketers program the numbers to be called into the equipment,
 21 and the dialer calls them at a rate to ensure that when a consumer answers
 22 the phone, a sales person is available to take the call. The principal feature
 23 of predictive dialing software is a timing function, not number storage or
 24 generation. ...[T]hese machines are not conceptually different from dialing
 25 machines without the predictive computer program attached.”

26

27 The TCPA defines an “automatic telephone dialing system” as “equipment
 28 which has the capacity (A) to store or produce telephone numbers to be
 called, using a random or sequential number generator; and (B) to dial such
 numbers.” The statutory definition contemplates autodialing equipment that
 either stores or produces numbers. It also provides that, in order to be
 considered an “automatic telephone dialing system,” the equipment need

1 only have the “capacity to store or produce telephone numbers (emphasis
2 added). . . .” It is clear from the statutory language and the legislative history
3 that Congress anticipated that the FCC, under its TCPA rulemaking
4 authority, might need to consider changes in technologies. In the past,
5 telemarketers may have used dialing equipment to create and dial 10-digit
6 telephone numbers arbitrarily. As one commenter points out, the evolution
7 of the teleservices industry has progressed to the point where using lists of
8 numbers is far more cost effective. The basic function of such equipment,
9 however, has not changed—the capacity to dial numbers without human
10 intervention. We fully expect automated dialing technology to continue to
11 develop.

12

13 [T]o exclude from these restrictions equipment that use predictive dialing
14 software from the definition of ‘automated telephone dialing equipment’
15 simply because it relies on a given set of numbers would lead to an
16 unintended result. ...We believe the purpose of the requirement that
17 equipment have the ‘capacity to store or produce telephone numbers to be
18 called’ is to ensure that the prohibition on autodialed calls not be
19 circumvented. Therefore, the Commission finds that a predictive dialer
20 falls within the meaning and statutory definition of ‘automatic telephone
21 dialing equipment’ and the intent of Congress.

22 (2003 Order, at ¶¶ 131-134).

23 21. All predictive dialers have the characteristics of an ATDS, but not all
24 ATDS’s are predictive dialers. As the FCC stated, “The principal feature of predictive
25 dialing software is a timing function, not number storage or generation.... [T]hese
26 machines are not conceptually different from dialing machines without the predictive
27 computer program attached.” (*See id.*, ¶ 131). That is, all predictive dialers necessarily
28 have the capacity to store and automatically call lists of telephone numbers, in addition
29 to their predictive functionality (which some ATDS’s lack).

30 22. The dialer’s mode of operation for a given call or campaign does not alter
31 its capacity as an ATDS. Changing the mode of dialing is effectively done by a couple
32 of mouse clicks and clicking “save.” The FCC considered this when clarifying

1 “capacity.” (FCC Resp. Br. at 31–36). The administrator of a predictive dialer is not
2 capable of removing the functionality of the system; The administrator can only choose
3 to not use it. The fact that one campaign can be configured to use preview mode and
4 another campaign configured to use predictive, while other agents place calls manually,
5 all occurring at the same time, illustrates the systems have the current capacity
6 regardless of the dialing mode selected for a particular campaign.

7 23. All Predictive Dialers that I have seen also employ a “manual” mode and a
8 “preview” mode, which presents the calling agent with information about the to-be-
9 called party before the number is actually dialed. The agent then has the ability to
10 accept that lead based on the information presented, or reject it and await the dialer to
11 present a new lead to be called. Because a dialer has a preview mode or a manual mode
12 and the calling party may have used those modes, however, does not mean that the
13 dialer fails to qualify as an ATDS.

14 24. I am not alone in my understanding of whether manual mode has any
15 effect on the capacity of the predictive dialer. Recently, Ontario Systems (the creators
16 of the popular Guaranteed Contacts predictive dialer and the FACS system) published a
17 two-part article on the subject of dialing modes and their impact on the predictive
18 dialer’s capacity as defined by the FCC. Using the example of manually dialed calls
19 through the predictive dialer, Ontario Systems highlights that a Predictive dialer is a
20 predictive dialer regardless how it is used. Manual dialing occurs when one presses all
21 ten digits of the phone number to place the call, not a number stored on the list.
22 Preview mode calls the numbers from the list stored in the predictive dialer’s database.
23 The FCC clarified that predictive dialers are an ATDS because of their capacity, not
24 how the operator uses it. The industry has named the predictive dialer not based on
25 how one uses it, but by its capabilities. The two articles from Ontario Systems are
26 relevant in their entirety (*See Exhibit B - The Big 2 Myths You Probably Believe About*
27 *Manual Dialing - Part 1; Exhibit C - The Big 2 Myths You Probably Believe About*
28 *Manual Dialing - Part 2*), however, the summary highlights the main point:

1
2 In other words, if the technology you use to contact consumers has any
3 capacity to dial predictively, or pull from a database of numbers and dial
4 them, current judicial opinion indicates it is an autodialer. Period. This is
5 true whether you launch the call manually by pressing a field, or if you
6 enter 10 digits on a keypad. On the other hand, it opined such a call is a
7 manual dial if it's made using a system to contact consumers that is not tied,
8 routed from or to, or in any way connected to your autodialer. If it's not, it
is unlikely you are contacting consumers using an automatic telephone
dialing system as defined by the FCC.

9 (*Exhibit C - The Big 2 Myths You Probably Believe About Manual Dialing - Part 2*). In
10 other words, to call cell phones, one should use a separate PBX phone system entirely
11 (plain phone system).

12 25. Another manufacturer of a popular predictive dialer agrees. Noble
13 Systems offers a solution which routes calls to wireless numbers through a separate
14 PBX entirely. (*See Exhibit F - Noble TCPA Compliance Solution*).

15 26. As stated above, the FCC relies upon the following definition of an
16 "automatic telephone dialing system":

17 The TCPA defines an "automatic telephone dialing system" as "equipment
18 which has the capacity (A) to store or produce telephone numbers to be
19 called, using a random or sequential number generator; and (B) to dial such
20 numbers." The statutory definition contemplates autodialing equipment that
21 either stores or produces numbers. It also provides that, in order to be
22 considered an "automatic telephone dialing system," the equipment need
only have "the capacity to store or produce telephone numbers (emphasis
added)...."

23 (*See* 2003 Order, at ¶ 132). Even more recently, on July 10, 2015, the FCC issued a
24 Declaratory Ruling and Order in which the FCC clarified the term "capacity." (*See In*
25 *the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*,
26 30 F.C.C. Rcd. 7961, at ¶¶ 10–24 (2015) (hereinafter the "2015 Order").

27 27. The FCC's orders and rulings provide me with information that assists me
28 in forming an opinion about whether USAF's dialing systems have the characteristics of

1 an ATDS. Based on those orders and rulings, based upon my review of the documents
2 and evidence provided in this case, based on my knowledge of computer storage and
3 computer processing, and based on my knowledge of autodialers and predictive dialers,
4 it is also my expert opinion that the calls at issue, placed by USAF to Plaintiff and the
5 proposed Class were made using predictive dialers that have the characteristics of an
6 automatic telephone dialing system as defined by the TCPA and FCC.

7 28. Analyzing the predictive dialers used was a simple process. To satisfy the
8 question of whether or not the systems have the technical capabilities described in the
9 FCC's clarification of the TCPA in the 2003 report, all I had to do was investigate what
10 the dialing equipment is capable of doing, and using my knowledge of predictive
11 dialers, determine if in fact those capabilities are those defined in the 2003 FCC Order.

12 29. After studying the documents produced by the Collectors for each of the
13 dialers implicated by Plaintiff's proposed Class definition—*i.e.*, those from Livevox,
14 Inc., Ontario Systems Guaranteed Contacts, Ontario Systems Contact Savvy, Noble
15 Systems, aQrate, DAKCS Qwikdial, Genesys Soundbite, the DPTS system, and
16 Interactive Intelligence—and based on my own experience with predictive dialers, I had
17 far more knowledge than what was required to make an informed and reliable
18 determination of whether or not the systems at issue in this case are able to store
19 numbers and call them automatically, or whether the systems can generate numbers and
20 call them automatically. In the case of the predictive dialers used by USAF, the systems
21 are capable of doing both.

22 30. In this case, the predictive dialers used by USAF have the capacity to store
23 numbers in a database, generate numbers for inclusion in a calling list, and call those
24 numbers without human intervention. Even if the operator of the computer walks away,
25 the dialers would continue to make those calls; and it will continue to make those calls
26 until the list of phone numbers is exhausted.

27 31. Each dialer listed above can call lists of numbers organized as
28 "campaigns." Each can launch predictive-dialed agent calls or deliver pre-recorded

1 messages by automatically calling a list of numbers (a “campaign” or “pool”¹), and
2 either connecting to agents as available, or playing a pre-recorded or automated audio
3 file.

4 32. For predictive-dialed calls, these dialers will call using multiple telephone
5 lines per agent, and will use all available telephone lines when making agent-less calls.
6 All phone calls, regardless of how dialed are called using the same equipment,
7 terminals, phone, PBX, and dialer before going to the PSTN (public switched telephone
8 network).

9 33. Additionally, the properties of the dialing systems have the precise
10 capabilities of an ATDS as further clarified by FCC Order 12-56 (May 21, 2012),
11 wherein, the FCC stated:

12 Under the TCPA, the term “automatic telephone dialing system” is defined
13 as “equipment which has the capacity (A) to store or produce telephone
14 numbers to be called, using a random or sequential number generator; and
15 (B) to dial such numbers.” *Id.* at § 227(a)(1). The Commission has
16 emphasized that this definition covers any equipment that has the specified
17 capacity to generate numbers and dial them without human intervention
18 whether or not the numbers called are randomly or sequentially generated
19 or come from calling lists.

20 2003 Order, at ¶ 133.

21 34. Thus, in my expert opinion, the dialing systems (as outlined above) have
22 the characteristics of an ATDS as contemplated by the TCPA and clarified by the FCC,
23 because the systems have the capacity to store numbers in a list and dial them without
24 human intervention and also have the capacity to generate numbers from a list for
25 dialing without human intervention.²

26 ¹ A “pool” is, like a “campaign,” in that it is calling a list of phone numbers
27 organized by some predefined criteria for a specific purpose.

28 ² In light of the FCC’s July 10, 2015 Declaratory Ruling and Order where it takes a
broad definition of “capacity” as it relates to autodialing numbers and the generation of
numbers, I would point out that making a computer generate a list of 10 digit numbers
“out of thin air”, is a relatively trivial task. Computers are designed to do math and
counting i.e. “to compute.” For example, typing “seq 6192486000 6192486999 >

Work and Analysis in this Case Regarding Calls Made by USAF's Collectors

35. In this case, I was also asked to compare or “scrub” the call records produced by USAF and third parties against two telephone number databases widely used by the telecommunications industry to identify the telephone numbers that are assigned to cell phones, and identify whether the telephone numbers assigned to cell numbers have been previously or subsequently reassigned or “ported” to or from landlines.

36. I am familiar with the databases used to determine whether a particular telephone number is assigned to a cell phone, and determine whether the number was ever reassigned from a landline to a cell phone or vice versa, because I personally use them on a regular basis. I have personally compared lists of telephone numbers against these same databases to identify which numbers are cell phones, and whether and when numbers had been reassigned from landline to cell phone or vice versa, on countless occasions over the years.

37. The database I regularly use and rely on in my business to determine if a telephone number has been assigned to a cell phone is the Interactive Marketing Solutions or “IMS” wireless cell block identifier list. This list was compiled by Interactive Marketing Solutions and the Direct Marketing Association. (*See Exhibit M -*

sequential_numbers_to_call.txt” creates a list of 1000 Sprint Wireless Numbers to be called (this was done on my regular laptop with no additional software installed. In other words, my laptop running Linux has natively installed a “sequential number generator” that can produce a list of phone numbers. Windows computers have a similar command line function as well. Typing “for /L %i in (2480000,1,2489999) do @echo 619%i >> sequential_numbers_to_call.txt” generates the same list on a Windows computer. All the predictive dialers used by USA Funds run on Linux or Windows and therefore have sequential number generators. Of course, storage of numbers does not discriminate on how the numbers were produced as computer storage can store any kind of data regardless of how it was produced whether loaded from a list of known numbers or a list of sequentially generated numbers. (*See FCC Resp. Br. at 6, 12–13, 36–49, 52.*)

1 *IMS_Do_Not_Contact_Solutions; Exhibit L – About IMS; Exhibit K – IMS Customer*
 2 *List; Exhibit N – wireless block identifier).*

3 38. The FCC’s Enforcement Bureau, Telecommunications Consumers Division
 4 (“TCD”) has relied on the IMS database, which the FCC has described as “an industry
 5 standard, commercially available database of known assigned and ported wireless
 6 numbers...” FCC 14-59, 29 FCC Rcd 5537, ¶7 n.16 (May 8, 2014) (“TCD compared
 7 the call records to an industry-standard, commercially available database of known
 8 assigned and ported wireless numbers to determine whether the Company made
 9 robocalls to wireless telephones. See Interactive Marketing Solutions, Inc. Website,
 10 <http://www.ims-dm.com/index.shtml>”); see also DA 13-265, 28 FCC Rcd 1840, ¶ 9 and
 11 n. 25 (Mar. 15, 2013), citing Interactive Marketing Solutions, Inc. Website
 12 <http://www.ims-dm.com/index.shtml>); and DA 15-530, 30 FCC Rcd 4548, ¶ 7 and n. 24
 13 (May 4, 2015), citing Interactive Marketing Solutions, Inc. Website Homepage
 14 <http://www.ims-dm.com/mvc/index.php>.

15 39. The database I regularly use and rely on in my business to determine
 16 whether a cell phone number has been reassigned or “ported” to or from a landline is
 17 the Neustar ported-to-wireless list and ported-to-landline list. Neustar is the ultimate
 18 resource of these lists because it was selected by the FCC to be the administrator of the
 19 Number Portability Administration Center (NPAC), the telecommunication industry’s
 20 common, authoritative database for routing calls for numbers ported between landline
 21 and wireless. (*See Exhibit O - NPAC*). The FCC also appointed Neustar as the North
 22 American Numbering Plan Administrator, which is responsible for the U.S. telephone
 23 numbering system. *See* 2003 Order at ¶170 (“NeuStar as the North American
 24 Numbering Plan Administrator, the National Pooling Administrator, and the LNP
 25 Administrator makes information available that can assist telemarketers in identifying
 26 numbers assigned to wireless carriers.”)

27 40. ACA International, the Association of Credit and Collections
 28 Professionals, lists both Interactive Marketing Solutions and Neustar as “industry

1 vendors that provide cell phone scrubbing services.”
2 (www.acainternational.org/tcpaarticle-cell-phone-scrubbing-services-36882.aspx (last
3 visited May 4, 2016)).

4 ***Analysis of Call Records***

5 41. I have received several CSV files containing call detail records provided
6 by Plaintiff’s counsel that I understand to document the phone calls made by the
7 Collectors on behalf of USAF for the purpose of collecting on USAF’s accounts, from
8 August 8, 2009 to the present. While the analysis of those Call Detail Records is still
9 ongoing, I have already identified several millions of calls to wireless numbers.

10 42. To determine which telephone numbers listed on the spreadsheets were cell
11 phone numbers *as of the date of the calls* indicated in the records, I first compared all of
12 the telephone numbers listed in them against the numbers listed in the IMS database.
13 This involved simply copying the spreadsheets and the IMS wireless cell block
14 identifier list into a conventional database program, and then executing a basic
15 command telling the program to compare the two lists to identify matches. This
16 comparison could be performed manually (by simply looking at the two lists), but that
17 would take an exceptionally long period of time given the size of the lists.

18 43. Then I compared the list of phone numbers in the spreadsheets to the list of
19 phone numbers in the Neustar database to see which ones had been reassigned from
20 landline to cell or from cell to landline. This involved the same process described
21 above. I copied the Neustar ported number lists into a relational database with
22 Defendant’s spreadsheets and executed a basic command telling the program to
23 compare the lists to identify the matches, and simultaneously identify which of the
24 numbers that were reassigned were nevertheless wireless numbers at the time of the
25 call. The lists included a date field showing when each number was reassigned or
26 ported, if at all. This comparison also could be performed manually (by simply looking
27 at the two lists), but once again that would take an exceptionally long period of time
28 given the size of the lists.

46. I reserve the right to amend, modify or supplement the statements and opinions set forth herein as appropriate.

I declare that the foregoing is true and correct, subject to the laws of perjury of the United States. Executed in Spring Valley, CA on this 4th day of May, 2016.


Jeffrey A. Hansen